

**Local Rule 4(b). Duties of all Retained Attorneys in Criminal Cases and all Criminal Justice Act-appointed Attorneys; Motions for Leave to Withdraw as Counsel on Appeal Where Retained in a Criminal Case or Appointed under Criminal Justice Act, Duties of Appellate Counsel in the Event of Affirmance.**

- (a) When a defendant convicted following trial wishes to appeal, trial counsel, whether retained or appointed by the district court, is responsible for representing the defendant until relieved by the Court of Appeals.
- (b) If trial counsel was appointed under the Criminal Justice Act, 18 U.S.C. §3006A, and intends to prosecute the appeal, this court may accept the District Court's finding that the defendant is financially unable to employ counsel and no further proof of the defendant's indigency need be submitted unless specifically required.
- (c) Any counsel wishing to be relieved on appeal shall, before moving to that end, advise the defendant that the defendant must promptly obtain other counsel unless the defendant desires to proceed pro se and that if the defendant is financially unable to obtain counsel, a lawyer may be appointed by this court under the Criminal Justice Act. If the defendant wishes to have a lawyer so appointed on appeal, counsel must see to it that the defendant receives and fills out the appropriate application forms, which are available from the office of the Clerk of this court. If the defendant desires to proceed pro se, counsel must advise the defendant of the requirements concerning the time within which the record must be docketed and the brief filed.
- (d) A motion to withdraw as counsel on appeal where the attorney is retained in a criminal case or appointed under the Criminal Justice Act must state the reasons for such relief and must be accompanied by one of the following:
  - 1. A showing that new counsel has been retained or appointed to represent defendant; or
  - 2. The defendant's completed application for appointment of counsel under the Criminal Justice Act or a showing that such application has already been filed in the Court of Appeals; or
  - 3. An affidavit or signed statement from the defendant showing that the defendant has been advised that the defendant may retain new counsel or apply for appointment of counsel and expressly stating that the defendant does not wish to be represented by counsel but elects to appear pro se; or
  - 4. An affidavit or signed statement from the defendant showing that the defendant has been advised of the defendant's rights with regard to the appeal and expressly stating that the defendant elects to withdraw the defendant's appeal; or
  - 5. A showing that exceptional circumstances prevent counsel from meeting any of

the requirements stated in subdivisions (1) to (4) above. Such a motion must be accompanied by proof of service on the defendant and the Government and will be determined, without oral argument, by a single judge. See Local Rule 27.

- (e) This Local Rule is supplementary to the Amended Plan to Supplement the Plans Adopted by the Several District Courts Within the Circuit, as required by the Criminal Justice Act of 1964, 18 U.S.C. § 3006A, as amended.

(Amended Mar. 27, 1996)